

### **Remarks**

In the July 30, 2008 Advisory Action, the previously filed July 14, 2008 amendment was not entered into the case. A Request for Continued Examination (RCE) and requisite fee have been submitted along with this response so that the Examiner would enter and consider the amendments and remarks of the present response.

### ***Status of All of the Claims***

Below is the status of the claims in this application.

1. Claim(s) pending: 33, 35-36, 39-40, 42, 48-51, and 53-69.
2. Claim(s) canceled: 1-32, 34, 37-38, 41, 43-47, and 52.
3. Claim(s) added: 64-69.
4. Claims withdrawn from consideration but not canceled: 35, 36, 42, 48, and 57.

### ***Claim Support***

It is believed that new claims 64-69 are commensurate with the previous election and are supported by the application as originally filed. For example, support for these as well as the amended claims can be at least found on page 12-14 of the specification and FIGS. 11-12 of the drawings.

### ***Claim Objections***

The claims have been amended in order to address the informalities cited in items 3 and 4 of the Office Action.

### ***Interview***

The Applicant first wishes to thank Examiner Hoekstra for the personal interview of August 11, 2008 concerning the above-identified application. At the interview, the claim amendments from the previously submitted (but not entered) response were discussed in view of the cited references, in particular U.S. Patent No. 6,315,738 to Nishikawa. Independent claims 33 and 40 have been modified in accordance with the Examiner's comments during the interview. As was suggested, claims 68 and 69 have been added as well. Based on the positive feedback from the Examiner, it is believed that the claims are presently allowable over Nishikawa. The substantive remarks presented at the interview have been again provided below.

Claim 33 has been modified in the manner as suggested by the Examiner during the interview, and based on the positive feedback from the Examiner, it is believed that claim 33 is now distinguished from Nishikawa. Specifically, claim 33 now recites “wherein the sealing member extends along the bottom surface at a location where the sealing member is sandwiched between the bottom surface of the test strip and the skin when the test strip is pressed against the skin, wherein the sealing member is configured to inhibit flow of the body fluid between the bottom surface of the test strip and the skin.” Nishikawa plainly fails to disclose this feature.

FIG. 4

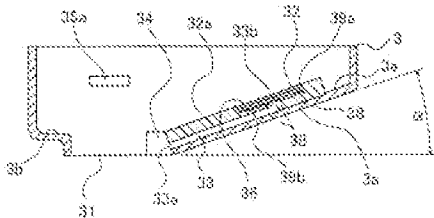


FIG. 13

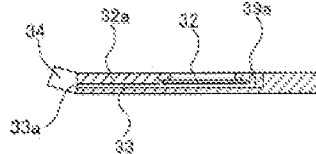


FIG. 15



In addition to the reasons given above, other reasons support the allowance of claim 33's dependent claims. For instance, Nishikawa fails to disclose or suggest a sealing member extending in a linear manner, as is recited in dependent claim 64. At the interview, the Examiner acknowledged this was a feature distinguishable from Nishikawa. Likewise, the Examiner found "the recessed surface is hydrophobic and the inlet opening is hydrophilic" in claim 66 to be a distinguishing feature. Nishikawa clearly does not disclose this hydrophobic-hydrophilic relationship.

### ***Independent Claim 40***

As suggested during the interview, claim 40 has been amended to recite the orientation of the recessed surface relative to the sealing member. In particular, claim 40 now recites “wherein the recessed surface extends from the end edge at the second end to the sealing member, wherein the recessed surface at the end edge with the inlet opening is located farther away from the skin than the recessed surface at the bottom surface during drawing of the body fluid from the incision.” As can be seen in FIG. 13 of Nishikawa, bottom surface (3a) is flat and does not have any type of recessed surface, let alone a recessed surface that stretches to a sealing member. In fact, Nishikawa discloses the opposite of what is now recited in claim 40. That is, instead of being located farther away from the skin during fluid collection, the body fluid inlet (33a) in Nishikawa is located close to the skin. As a result, Nishikawa does not disclose the recessed surface as now recited in amended claim 40. Therefore, claim 40 and its dependent claims are in condition for allowance.

### ***Conclusion***

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the undersigned representative by telephone.

Respectfully submitted,

By /Charles P. Schmal #45,082/

Charles P. Schmal, Reg. No. 45082  
Woodard, Emhardt, Moriarty, McNett & Henry LLP  
111 Monument Circle, Suite 3700  
Indianapolis, Indiana 46204-5137  
Telephone (317) 634-3456 Fax (317) 637-7561  
Email: cschmal@uspatent.com